

REMARKS

Applicants would like to thank the Examiner for continuing to allow claims 24 and 25. Claims 1-3, 5, 8, 24-30, and 32-50 are currently pending. Claims 4, 6-7, 9-23 and 31 have been canceled. Claims 1, 2, 26, 30, and 32 have been amended and claims 37-50 are new. These amendments and new claims find support in previously submitted claims 1-3, 24, and 26, paragraphs 1, 11, and 38 of the specification as filed, and figures 1-4.

The Examiner has rejected claims 1-3, 5, 8, 26-27, and 30-36 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2003/0065333 to DeMayo. The Examiner argues that DeMayo discloses a bone or cartilage implant delivery device having all of the elements of claims 1, 26, and 30.

Applicants respectfully disagree. Specifically, claims 1 and 26 have been amended to specify that the inner shaft includes a friction member around a portion of an outer surface of the inner shaft, wherein the friction member is in the shape of a ring. In addition, claim 30 has been amended to specify that the implant delivery device includes a solid implant housed within the distal end of the outer shaft. DeMayo does not disclose either of these limitations. Therefore, claims 1, 26, and 30 are in condition for allowance and since claims 2-3, 5, 8, 27, and 32-36 depend either directly or indirectly from amended claims 1, 26, and 30, these claims are also in condition for allowance. As previously stated, claim 31 has been canceled. It is respectfully requested that claims 1-3, 5, 8, 26-27, 30, and 32-36 be allowed.

The Examiner has rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over DeMayo in view of US Patent No. 6,302,887 issued to Spranza et al. The Spranza reference fails to cure the previously described deficiency of the DeMayo reference with respect to claim 26. Therefore, the combination of the DeMayo and Spranza references fails to teach all of the limitations of claim 26, from which claim 28 depends. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 28.

The Examiner has rejected claim 29 under 35 U.S.C. 103(a) as being unpatentable over DeMayo in view of US Publication No. 2003/0065333 to Smith et al. The Smith reference fails to cure the previously described deficiency of the DeMayo reference with respect to claim 26. Therefore, the combination of the DeMayo and Smith references fails to teach all of the limitations of claim 26, from which claim 29 depends. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 29.

Applicants do not acquiesce to the characterizations of the art. For brevity and to advance prosecution, however, Applicants may have not addressed all characterizations of the art, but reserve the right to do so in further prosecution of this or a subsequent application.

The absence of an explicit response by the Applicants to any of the Examiner's positions does not constitute a concession of the Examiner's positions. The fact that Applicants comments have focused on particular arguments does not constitute a concession that there are not other good arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

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Respectfully submitted,

Date:

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